

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MYRON COFFIN,

Plaintiff,

v.

BRUMBAUGH & QUANDAHL, P.C., LLO,

Defendant.

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PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MYRON COFFIN (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against Defendant, BRUMBAUGH & QUANDAHL, P.C., LLO, (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. 1692, *et seq.*
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Defendant conducts business in the state of Nebraska, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in Loup City, Sherman County, Nebraska.
7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).
8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection law firm with a business office in Omaha, Nebraska.

FACTUAL ALLEGATIONS

10. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor, Capital One Bank, with account number ending in 1128 (Defendant's File Number: 06-01222-0).
11. Plaintiff's alleged debt owed to Capital One Bank arises from transactions for personal, family, and household purposes.
12. On February 3, 2006, Plaintiff's counsel mailed a cease and desist and a notice of representation letter to Defendant (Plaintiff's letter to Defendant is attached as Exhibit A).
13. On March 13, 2006, Plaintiff's counsel mailed a notice of representation letter to Defendant (Plaintiff's letter to Defendant is attached as Exhibit B).
14. Despite receiving Plaintiff's counsel's letters (Exhibits A and B), Defendant communicated with Plaintiff afterward in an attempt to collect a debt (Defendant's letter to Plaintiff dated December 3, 2010, is attached as Exhibit C).

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(2) of the FDCPA by communicating with Plaintiff even though Defendant knew Plaintiff was represented by an attorney.
- b. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, MYRON COFFIN, respectfully requests judgment be entered against Defendant, BRUMBAUGH & QUANDAHL, P.C., LLO, for the following:

- 16. Statutory damages of \$1,000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- 17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- 18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, MYRON COFFIN, demands a jury trial in this case.

Dated: February 3, 2011

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: /s/ Michael S. Agruss
Michael S. Agruss
California State Bar Number: 259567
Krohn & Moss, Ltd.
10474 Santa Monica Blvd., Suite 401
Los Angeles, CA 90025
Tel: 323-988-2400 x235
Fax: 866-620-2956
magruss@consumerlawcenter.com
Attorneys for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF NEBRASKA

Plaintiff, MYRON COFFIN, states the following:

- 1 I am the Plaintiff in this civil proceeding
- 2 I have read the above-entitled civil Complaint prepared by my attorneys and I believe
that all of the facts contained in it are true, to the best of my knowledge, information
and belief formed after reasonable inquiry.
- 3 I believe that this civil Complaint is well grounded in fact and warranted by existing
law or by a good faith argument for the extension, modification or reversal of existing
law
- 4 I believe that this civil Complaint is not interposed for any improper purpose, such as
to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
needless increase in the cost of litigation to any Defendant(s), named in the
Complaint
- 5 I have filed this Complaint in good faith and solely for the purposes set forth in it
- 6 Each and every exhibit I have provided to my attorneys which has been attached to
this Complaint is a true and correct copy of the original
- 7 Except for clearly indicated redactions made by my attorneys where appropriate, I
have not altered, changed, modified or fabricated these exhibits, except that some of
the attached exhibits may contain some of my own handwritten notations

Pursuant to 28 U.S.C. § 1746(2), I, MYRON COFFIN, hereby declare (or certify, verify
or state) under penalty of perjury that the foregoing is true and correct.

2-7-2011

Date

Myron Coffin
MYRON COFFIN

EXHIBIT A

Debt Counsel for Seniors & the Disabled



3 February 2006

Mr. Kirk E. Brumbaugh
Brumbaugh & Quandahl, P.C.
4885 S 118th Street #100
Omaha NE 68137-2241

Re: Myron & Shirley Coffin; your file no. 06-01222-0

Dear Mr. Brumbaugh:

It is my understanding that your firm is now handling a collection action against the above-referenced individual. Please be advised that my firm represents this individual for the purpose of resolving their debts. Debt Counsel for Seniors and the Disabled exclusively represents debtors who are receiving social security, disability, veteran's benefits or otherwise federally protected income that is not susceptible to garnishment. The majority of our clients also do not have property within any jurisdiction that may be attached or liquidated to satisfy a judgment.

Moreover, I have analyzed my client's income-to-expense ratio and determined that they are legally insolvent. It is your prerogative and right to pursue legal action against my client, of course, and I do not contend otherwise; with an aim toward saving time and expense for everyone involved, however, I am prepared to provide you with a sworn affidavit and bank statements regarding the status of my client's income if it will help preclude suit against them.

Furthermore, because my firm is the client's legal representative, we request that you cease contacting them with regard to this debt per § 1692c(a)(2) of the Fair Debt Collection Practices Act. We do not represent our clients in the state courts, but our attorneys are admitted to the federal bar and, when necessary, will represent our clients in United States Bankruptcy Court. We are also affiliated with a number of bankruptcy and consumer advocacy lawyers across the country. Further information regarding our affiliated law firms is available at your request.

Any lawyer is understandably frustrated when we inform them that the individual they are pursuing is judgment proof, but one of the goals of Debt Counsel for Seniors and the Disabled is to help all parties, including opposing counsel, utilize their resources more judiciously and efficiently.

Jerome S. Lamet, Supervising Attorney

The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

Finally, please note that if our client's financial situation changes or we cease to represent them with regard to their debts, we will notify you accordingly.

If I can provide any further clarification or entertain any questions you might have concerning this matter, please feel free to contact me.

Very truly yours,

Jerome S. Lamet
Debt Counsel for Seniors and the Disabled

Cc: Myron & Shirley Coffin

Jerome S. Lamet, Supervising Attorney

The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

EXHIBIT B

Debt Counsel for Seniors & the Disabled
DCSD

13 March 2006

Mr. Kirk E. Brumbaugh
Brumbaugh & Quandahl, P.C.
4885 S 118th Street #100
Omaha NE 68137-2241

COPY

Re: **Capital One** [REDACTED] no. CI 06 14

Dear Mr. Brumbaugh:

My firm represents the above-mentioned defendant for the purpose of handling their unsecured debts. Please be advised that, as I may have informed you previously, this individual is insolvent and does not have any garnishable income or assets that may be attached to satisfy a judgment.

Debt Counsel for Seniors and the Disabled exclusively represents individuals whose sole income is from social security, disability, or other protected sources; income that is consequently immune from attachment under federal law. If you do not have an affidavit swearing to this fact in your file, please let me know and I will be more than happy to provide you with one.

The client will not be filing an answer, undoubtedly resulting in an unenforceable default judgment against them. Furthermore, my firm will not defend this legal action on the client's behalf, but we may refer the client to bankruptcy counsel if necessary.

I appreciate and respect your right to file suit, as well as your responsibility to pursue the claim on behalf of your client. I am writing today simply to inform you of this debtor's situation and to encourage you to direct your resources towards more fruitful defendants.

Another, more immediate concern is that a garnishment action may now be commenced against my client's bank account, which receives no funds other than those exempt from attachment. I will gladly provide you with copies of the debtor's checking account statements if it will prevent a freeze or illegal garnishment of the protected funds, since most of my clients depend on their monthly benefits checks not only for their bills but for life-sustaining medications and medical treatment.

Jerome S. Lamet, Supervising Attorney

The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

In most of the cases where a claim against one of my clients goes to suit, the creditor's counsel will dismiss the suit upon learning of the client's advanced age or disability and their lack of attachable income and assets. I respectfully request that you follow this example in the instant case, or at the very least to forewarn me of any further action on your part so I may advise the client accordingly.

If I can provide any further clarification or entertain any questions you might have concerning this matter, please feel free to contact me.

Very truly yours,

Jerome S. Lamet
Debt Counsel for Seniors and the Disabled

cc: Myron & Shirley Coffin

Jerome S. Lamet, Supervising Attorney

The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-2741

EXHIBIT C

4885 South 118th St, STE 100
Omaha, NE 68137



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790338

Brumbaugh & Quandahl P.C., LLO

4885 South 118th St, STE 100
Omaha, NE 68137

Toll Free: (877) 393-3992

Fax: (402) 554-0339

Website: www.bqlaw.com

RECEIVED 3 2011



MYRON COFFIN c/o
Myron Coffin
131 NORTH 5TH STREET
LOUP CITY NE 68853-6166

RE File Number: 06-01222
Creditor: Capital One Bank
Original Creditor: shr ci06-14/dc ci06-35
Principal Balance: \$ [REDACTED]

FOR SETTLEMENT PURPOSES ONLY

Our client, the above creditor, has authorized Brumbaugh & Quandahl to accept \$5,274.73 which is 80% of the current balance. If you wish to take advantage of this offer, please remit your payment to our office within twenty-five (25) days from the date of this letter.

For your convenience we offer multiple ways to make your payment.

- Call: 877-393-3992
- Mail or In Person: 4885 S. 118th St. Suite 100, Omaha NE 68137
- Online: www.bqlaw.com and click on "Make A Payment"

If your circumstances prevent you from settling this matter, please contact our office to make additional arrangements. Please reference our internal file number 06-01222 in all communications with our office.

Sincerely,

Brumbaugh & Quandahl, P.C. LLO

FEDERAL DISCLOSURE

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

lst180.frm

Disclaimer: There was no attorney involvement in sending this letter.

▲ PLEASE DETACH HERE AND RETURN BOTTOM STUB WITH PAYMENT IN ENCLOSED ENVELOPE ▲

MYRON COFFIN c/o
Myron Coffin
131 NORTH 5TH STREET
LOUP CITY NE 68853-6166

RE File Number: 06-01222
Creditor: Capital One Bank
Original Creditor: shr ci06-14/dc ci06-35
Principal Balance: \$ [REDACTED]

Please make check Payable to: Capital One Bank

Please Remit Payment To:



Brumbaugh & Quandahl P.C., LLO
4885 South 118th St, STE 100
Omaha, NE 68137

<input type="checkbox"/> VISA	<input type="checkbox"/> MASTERCARD	<input type="checkbox"/> AMER EXP
CARD NUMBER	EXP. DATE	AMOUNT
SIGNATURE		MUST INCLUDE 3 DIGIT SECURITY CODE FROM BACK OF CARD